

REMARKS

Claims 1-13 are pending in the application. Claims 1-4 and 6-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Tengal et al. Applicant respectfully traverses for the reasons set forth below.

Tengal discloses a system for matching a loan to a potential borrower wherein a borrower provides user input which represents attributes of the borrower and the system matches those borrower attributes to a particular loan product or products. Such borrower attributes include, e.g., the borrower's name, address, social security number, gross income, current monthly debt, and the type of loan the borrower is applying for. See FIG. 5 of Tengal et al., and the description thereof at column 8, lines 50-65. Other borrower attributes, such as the borrower's credit score, may be obtained from other sources, such as a credit bureau. Once the borrower's attributes are received and stored, the system matches those attributes to a loan product using loan acceptance criteria associated with several loan products. In this respect, the Tengal system operates in much the same manner as the related art discussed in the "Background" section at pages 2-3 of the present Applicant's disclosure.

Applicant's invention as recited in claims 1-4 and 6-8, on the other hand, is a system and method which allows a broker or consumer to select loan products based upon attributes of the *loan*. The broker or consumer enters or selects loan criteria (e.g., criteria which would affect the quoted points, rate, cap, or margin associated with a particular loan) and the system uses that criteria to select a loan product or products. The system uses the broker or consumer's loan criteria along with loan data stored in a database to calculate at least a quoted interest rate and a plurality of adjustments, such as point adjustments, rate adjustments or cap adjustments. These adjustments are then displayed to the broker or consumer. See, e.g., Applicant's FIGS. 6a through 6d and the description thereof in Applicant's written specification. In the embodiment of claim 6, adjustments are displayed along with associated adjustment criteria, and the broker or consumer selects certain adjustments in accordance with the criteria that are applicable.

Tengel et al. provide absolutely no teaching or suggestion of displaying loan adjustments to a broker or consumer, and provide absolutely no teaching or suggestion of allowing the broker or consumer to select certain loan adjustments in accordance with the adjustment criteria that are applicable.

The Examiner apparently reads the claimed "loan adjustments" upon Tengel's disclosed steps of comparing borrower attributes against all loan acceptance criteria stored in his database and then displaying a ranking of the loans which provide the best interest rates, origination fees, points, etc. However, the rates, origination fees, points, etc. displayed by the Tengel system are not "loan adjustments" as that term is used in the art and in the present Applicant's specification. The loan adjustments of the claimed invention are not the interest rate, origination fees, points, or caps themselves; rather, the claimed loan adjustments are changes to such figures which may or may not be applied depending upon the applicability of associated adjustment criteria.

To clarify the term "loan adjustments" as used in Applicant's claim 1 and its dependent claims 2 through 5, claim 1 has been amended herein to recite that the loan adjustments comprise changes to be made if associated adjustment criteria are indicated as being applicable. Applicant believes claims 6-8 as filed are clear in this respect.

The Court of Appeals for the Federal Circuit has consistently held that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick, 221 USPQ 481, 485 (Fed. Cir. 1984). As set forth above, Tengel et al. clearly fails to disclose elements positively recited and claimed in Applicant's independent claims 1 and 6. Therefore, it is respectfully submitted that the rejection of claims 1-4 and 6-8 under 35 U.S.C. § 102(e) is improper and should be withdrawn.

With respect to independent claims 9 and 12, and their dependent claims 10, 11, and 13, the claimed invention includes system and method which provides a lender computer for creating first and second files, the first file containing terms and conditions associated with a loan product and the second file containing daily data describing a current rate, points, cap or margin associated with a loan product. The data from the first and second files is received and stored in a database. By providing a system and method which uses two separate files for terms and conditions and for the daily data, respectively, Applicant's claimed invention provides an

improved and more efficient means for updating data in the database. Among other advantages to this approach, the first file, which contains terms and conditions which do not change daily, need not be updated each time the second file containing daily data is sent from the lender computer to the database. Further advantages of this approach are set forth in Applicant's specification at, e.g., page 6, lines 14 et seq., and page 9, line 14 through page 13, line 4.

Tengel et al. provide absolutely no teaching or suggestion of a lender computer for creating first and second files, the first file containing terms and conditions associated with a loan product and the second file containing daily data describing a current rate, points, cap or margin associated with a loan product. While the Examiner apparently reads this limitation upon Tengal's disclosed lender terminals, which could be used to respectively create first and second files each having terms and conditions *and* daily data, Applicant disagrees that such use of the system of Tengal would anticipate the presently claimed invention. In particular, Tengal does not teach or suggest a system wherein the second or "daily data" file does not include the terms and conditions which do not require daily updating.

To clarify the above aspect of the invention set forth in claims 9-13, claims 9 and 12 have been amended to recite that the second or "daily data" file does not include said terms and conditions which do not require daily updating. This is not to say that the daily data file must not include any terms and conditions that do not require daily updating, but rather that there must be some term or condition in the first file which is not included in the second file.

As set forth above, Tengal et al. clearly fails to disclose elements positively recited and claimed in Applicant's independent claims 9 and 12. Therefore, it is respectfully submitted that, under Lindemann, *supra*, the rejection of claims 9-13 under 35 U.S.C. § 102(e) is improper and should be withdrawn.

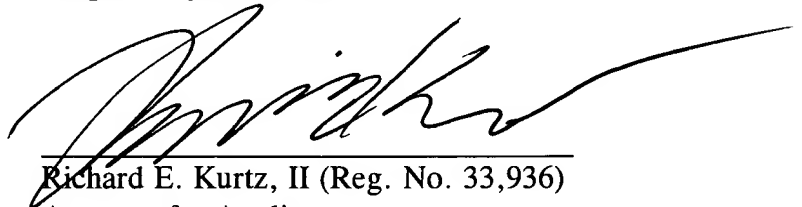
Dependent claim 5 stands rejected under 35 U.S.C. § 103(a) as being obvious over Tengal et al. Applicant asserts that claim 5 is patentable over Tengal for all of the reasons set forth above with respect to claim 1 from which it depends. It is well-established that, in order to show obviousness, all limitations in the claim must be taught or suggested by the prior art. In Re Boyka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); MPEP § 2143.03. It is error to ignore specific limitations distinguishing over the references. In Re Boe, 184 U.S.P.Q. 38, 505 F.2d 1297 (C.C.P.A. 1974); In Re Saether, 181 U.S.P.Q. 36, 492 F.2d 849 (C.C.P.A. 1974); In Re Glass, 176 U.S.P.Q. 489, 472 F.2d 1388 (C.C.P.A. 1973). In view of the elements of claim 1 which, as is set forth above, are not taught or suggested by Tengal et al., it

is respectfully submitted that the rejection of claim 5 under 35 U.S.C. § 103(a) is improper and should be withdrawn.

CONCLUSION

Having responded to all objections and rejections set forth in the outstanding Office Action, it is submitted that claims 1-13 are in condition for allowance and Notice to that effect is respectfully solicited. In the event that the Examiner is of the opinion that a brief telephone or personal interview will facilitate allowance of one or more of the above claims, he is courteously requested to contact applicant's undersigned representative.

Respectfully submitted,



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